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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,917	11/08/2001	Joseph D. La Scola	Internet P 2	1484

7590 07/18/2002

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EXAMINER

BRANN, DEBORAH M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 07/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,917

Applicant(s)

LA SCOLA ET AL.

Examiner

Deborah M. Brann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first office action for application number 10/006,917, Optical Cable Guide and Support, filed November 8, 2001. Claims 1-12 are pending.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show slots in sidewall 103 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "105" has been used to designate both slots and wiper portion. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: on page 5, lines 9 and 10, "clip 105" should be ~~clip 115~~. Appropriate correction is required.

Claim Objections

Claim 8 is objected to because of the following informalities: in line 2, "are" should be added before "coupled". Appropriate correction is required.

Claims 10 and 11 are objected to because of the following informalities: in line 1, "slats" should be --slots--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10 and 11 are vague and indefinite because the long axis of the trough as represented by a line may be contained by an infinite number of planes.

Claim 12 is vague and indefinite because the word "tubular". The claim limitation "tubular" is at odds with the claim limitation that the trough element has a U-shaped cross-section as "tubular" implies a hollow member with no open sides.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-6, 8-10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,158,180 to Edwards.

Regarding claims 1-4 and 9, Edwards discloses a mounting device for communications conduit (figure 21) comprising a trough element (24) having a trough opening (see figure) that may be constructed from a pliable material (col. 12, lines 7-8) and supports (26, 28, 30) coupled to the trough element and adapted to be attached to an apparatus (10, figure 4) such that the trough element generally faces the apparatus, the apparatus comprising a rectangular frame (col. 4, lines 20-21). The supports are adjustable in the broadest sense to allow the distance of the trough opening from the apparatus to be adjusted. For example, the trough opening may be adjusted with respect to the upper frame member (2, figure 4) of the apparatus by being mounted to an adjacent or lower member. The supports may also be adjusted to alter the angle of the trough element relative to the apparatus, for example by reversing the mounting device on the upper frame member (see figure 25).

Regarding claims 5, 6, and 8, Edwards further discloses a detent element (98) coupled to the trough element and associated with the trough opening and comprising a physical extension of the trough element (see figure 21).

Regarding claims 10 (as best understood) and 12 (as best understood), Edwards discloses a trough element with a U-shaped cross section (col. 8, lines 44-47), the trough element having slots (130 and 131, figure 23) in the sides (40, 42) that would enable the trough element to bend about an axis.

Claims 1, 2, 4-9, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,402,096 to Ismert et al.

Regarding claims 1, 2, 4, and 12, Ismert discloses conduit support (figures 1-5) comprising a trough element (1), the trough element having U-shaped cross section with a trough opening (see figure 7) and supports (16, 17) coupled to the trough element and adapted to be attached to an apparatus (col. 6, lines 1-5) such that the trough opening generally faces the apparatus (see distal openings 4b and 5b, figure 1). Ismert further discloses the supports as adjustable to enable the trough opening to be adjustable in its distance from an apparatus such as a frame (col. 6, lines 1-8).

Regarding claims 5-9, Ismert discloses two detent components (9, 14) that are physical extensions of the trough element and associated with and coupled to the trough opening (see figures 4-5), the detents including flexible components (10, 15; see also col. 7, lines 59-60) and the trough element constructed of a pliable material (see supports 16 and 17, which are integrally formed with U-shaped trough element and col. 6, lines 1-2).

Allowable Subject Matter

Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach a U-shaped trough element having slots in the bottom enabling the trough element to be bent.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Nos. 4,145,853 to Bridwell, 6,274,814 to Iavarone, 6,399,883 to Lhota and British Patent No. 2,124,832 to Neimes disclose U-shaped trough elements for supporting wires or cables.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah M. Brann whose telephone number is 703-308-3122. The examiner can normally be reached on M-F (8:00 am - 5:30 pm) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3519 for regular communications and 703-305-3597 for formal and After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

DB

Deborah Brann

July 15, 2002

Korie Chan

KORIE CHAN

PATENT EXAMINER

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